

House Bill 491 (AS PASSED HOUSE AND SENATE)

By: Representative Jenkins of the 8th

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act to create the office of Commissioner of Towns County, approved March
2 14, 1984 (Ga. L. 1984, p. 4130), as amended, so as to reconstitute the board of
3 commissioners of Towns County and revise and restate the law relating to the board; to
4 provide for continuation in office of the present sole county commissioner; to provide for
5 election of the five-member board of commissioners upon a vacancy in the office of sole
6 commissioner; to provide for exercise of the power of the sole commissioner by the judge
7 of the probate court until the vacancy is filled; to provide for the establishment of
8 commissioner districts; to provide for the election and terms of office for subsequent
9 members; to provide for filling vacancies; to provide for the powers, duties, and authority of
10 the chairperson and members of the board; to provide for regular and special meetings; to
11 provide for annual audits of county finances and financial records; to provide for a quarterly
12 report for receipts and disbursements of funds; to provide for related matters; to provide for
13 submission of this Act for preclearance under the federal Voting Rights Act of 1965, as
14 amended; to provide for a referendum; to provide for automatic repeal in certain
15 circumstances; to provide for contingent effective dates; to repeal conflicting laws; and for
16 other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 An Act to create the office of Commissioner of Towns County, approved March 14, 1984
20 (Ga. L. 1984, p. 4130), as amended, is amended by striking Section 1 and all other
21 substantive sections of said Act and inserting in place thereof the following revision and
22 restatement of the law relating to the Board of Commissioners of Towns County:

23 "SECTION 1.

H. B. 491

(a) Except as otherwise provided in subsections (b) and (c) of this section, the office of the sole county commissioner of Towns County which exists on January 1, 2005, is continued in existence as the governing authority of Towns County through December 31, 2008. On and after January 1, 2009, a board of commissioners shall be constituted as provided in this Act and shall be the governing authority of Towns County.

(b) In the event a vacancy in the office of the sole county commissioner of Towns County occurs before the election and qualification of the members of the board of commissioners established by subsection (a) of this section, the vacancy shall be filled for the unexpired term of the sole county commissioner by special election of five members of the board of commissioners, as provided in this Act. Such special election shall be called within ten days after the date of the vacancy, and shall be held and conducted in accordance with the applicable provisions of Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'

(c) In the event a vacancy in the office of the sole county commissioner of Towns County occurs after the election and qualification of the members of the board of commissioners established by subsection (a) of this section, but before January 1, 2009, such vacancy shall be filled by the five newly elected members of the board of commissioners, who shall take office as soon as possible. In this event, the terms of office of the newly elected members of the board of commissioners shall expire as provided in Section 2 of this Act.

(d) In the event of a vacancy in the office of sole commissioner as set out in subsection (b) or (c) of this section, the judge of the Probate Court of Towns County shall be vested with and exercise the powers and duties of the sole commissioner until the vacancy is filled by the procedure set out in subsection (b) or (c), as appropriate.

SECTION 2.

(a) The Board of Commissioners of Towns County shall be composed of five members.

(b) The member of the board who is the chairperson of the board may reside anywhere within Towns County and, if elected, must receive the number of votes cast for that office as required by general law in the entire county. The chairperson must continue to reside within the county during that person's term of office, or that office shall become vacant. The chairperson shall devote full time to the duties of the office.

(c) For purposes of electing members of the board of commissioners, other than the chairperson, Towns County is divided into four commissioner districts. One member of the board shall be elected from each district. The four commissioner districts shall be and correspond to those four numbered districts described in and attached to and made a part of this Act and further identified as Plan Name: TOWNSP1 Plan Type: Local User: staff Administrator: Towns.

(d) When used in such attachment, the terms 'Tract' and 'BG' (Block Group) shall mean and describe the same geographical boundaries as provided in the report of the Bureau of the Census for the United States decennial census of 2000 for the State of Georgia. The separate numeric designations in a Tract description which are underneath a 'BG' heading shall mean and describe individual Blocks within a Block Group as provided in the report of the Bureau of the census for the United States decennial census of 2000 for the State of Georgia. Any part of Towns County which is not included in any such district described in that attachment shall be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia. Any part of Towns County which is described in that attachment as being in a particular district shall nevertheless not be included within such district if such part is not contiguous to such district. Such noncontiguous part shall instead be included within that district contiguous to such part which contains the least population according to the United States decennial census of 2000 for the State of Georgia.

(e) In order to be elected as a member of the board from a commissioner district, a person must receive the number of votes cast as required by general law for that office in the entire county. At the time of qualifying for election as a member of the board from a commissioner district, each candidate for such office shall specify the commissioner district for which that person is a candidate. A person elected or appointed as a member of the board from a commissioner district must continue to reside in that district during that person's term of office or that office shall become vacant.

(f) All members of the board who are elected thereto shall be nominated and elected in accordance with Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.'

(g) No person shall be a member of the board if that person is ineligible for such office pursuant to Code Section 45-2-1 of the O.C.G.A. or any other general law applicable to that office.

(h) Except as otherwise provided in subsections (b) and (c) of Section 1 of this Act, the first members of the board of commissioners elected under this Act shall be elected in the general election of November 2008.

(i) The terms of office of members elected from Commissioner Districts 1 and 3 shall expire December 31, 2010, when their successors are elected and qualified. The terms of office of members elected from Commissioner Districts 2 and 4 shall expire December 31, 2012, when their successors are elected and qualified. Successors to members so elected shall be elected at the general election next preceding the expiration of such terms of office and shall take office on January 1 following their election for terms of four years and until their successors are elected and qualified.

SECTION 3.

When a vacancy occurs in the board of commissioners, and the unexpired term of office exceeds six months, it shall be the duty of the judge of the probate court to call a special election to elect a successor and fill the vacancy in not less than 30 nor more than 60 days, as prescribed in Chapter 2 of Title 21 of the O.C.G.A., the 'Georgia Election Code.' If the unexpired term to be filled is less than six months in duration, the judge of the superior court of the county shall have the power to appoint a successor to fill the unexpired term.

SECTION 4.

(a) The board shall have the power and authority to fix and establish by appropriate resolution, entered on its minutes, policies, rules, and regulations governing all matters reserved to the jurisdiction of the board. Such policies, rules, and regulations, when so adopted with proper entry thereof made on the minutes of the board, shall be conclusive and binding. The board shall exercise only those administrative powers which are necessarily and properly incident to its functions as a policy-making or rule-making body or which are necessary to compel enforcement of its adopted resolutions.

(b) The board shall exercise all power and authority formerly vested in the sole county commissioner.

(c) The board shall have such duties, powers, and authority which are or may be vested in the board by the Constitution or general laws of this state, including, but not limited to, the following:

(1) To levy taxes;

(2) To fix fees;

(3) To make appropriations;

(4) To fix rates and charges for services provided by the county;

(5) To authorize the incurring of indebtedness;

(6) To order work done where the cost is to be assessed against benefited property and to fix the basis for such assessment;

(7) To authorize and provide for the execution of contracts;

(8) To establish, alter, open, close, build, repair, or abolish public roads and bridges, according to law; provided, however, that the chairperson shall have the authority to adopt subdivision plats when the requirement established by the board for subdivisions is met;

(9) To accept for the county the provisions of any optional statute where the statute permits its acceptance by the governing authority of the county;

(10) To regulate land use by the adoption of a comprehensive development plan and by the adoption of other planning and zoning ordinances which relate reasonably to the public health, safety, morality, and general welfare of the county and its citizens; and to exercise all other powers, duties, and authority in respect to zoning and planning as authorized by law;

(11) To create and change the boundaries of special districts authorized by law;

(12) To fix the bonds of county officers where same are not fixed by statute;

(13) To enact any ordinances or other legislation which the county may be given authority to enact;

(14) To determine the priority of capital improvements;

(15) To call elections for the voting of bonds; and

(16) To appoint and retain legal counsel and an independent county auditor and provide for their compensation.

SECTION 5.

(a) The chairperson shall be the official head of the board.

(b) The chairperson shall cause an agenda to be established for and preside at all meetings of the board unless absent.

(c) The chairperson shall have all the rights, powers, duties, and responsibilities of a member of the board, including the right and power to make motions and nominations, except that the chairperson shall not vote on matters before the board except to express unanimity or where there is equal division on the question.

(d) The chairperson may serve as a member of boards, commissions, and committees as required by law or as requested by the board and shall perform such other duties as may be required by law.

(e) The board shall elect one of the members to serve as vice chairperson. The vice chairperson shall cause an agenda to be established for and preside at all meetings at which the chairperson is absent. In such event, the vice chairperson shall retain all of his or her rights, duties, powers, and responsibilities as a member of the board, including the right to make motions and to vote on matters before the board.

SECTION 6.

(a) Before entering upon the discharge of their duties, the members shall subscribe to an oath for the true and faithful performance of their duties, and to uphold the laws and constitutions of the State of Georgia and the United States of America.

(b) The board shall hold a minimum of one regular meeting per month for the transaction of business as may legitimately come before it. Special meetings may be convened. Public notice of the time, place, and dates shall be published and posted in a conspicuous place at least 24 hours in advance of the meeting and such notice shall be provided to the legal organ of the county in which public notices of sheriffs sales are published.

(c) The board shall cause minutes of its meetings to be kept. A book of resolutions, acts, motions, rulings, and ordinances shall be kept. These records shall be available for public inspection in accordance with the laws of the State of Georgia.

(d) The public shall at all times be afforded access to meetings declared open to the public and all matter shall be transacted in accordance with Chapter 14 of Title 50 of the O.C.G.A.

SECTION 7.

(a) The board shall adopt and operate under annual budgets.

(b) The board shall provide for and cause to be made annual audits in accordance with the laws of the State of Georgia.

(c) The board shall provide for and cause detailed reviews of all receipts and expenditures by each department or cost center on a quarterly basis. Such reviews shall show actual amounts versus the budget and prior years. Significant variances shall be detailed to the board's satisfaction.

SECTION 8.

(a) The chairperson of the board shall be compensated not less than the clerk of the superior court of Towns County in monthly installments from the funds of the county. The board of commissioners may supplement such pay as the members of the board deem appropriate by majority vote.

(b) The commissioners other than the chairperson shall be compensated in the amount of \$500.00 monthly from funds of the county. The commissioners other than the chairperson shall receive reimbursement for actual expenses incurred in the performance of their official duties."

SECTION 2.

The governing authority of Towns County shall through its legal counsel cause this Act to be submitted for preclearance under the federal Voting Rights Act of 1965, as amended; and such submission shall be made to the United States Department of Justice or filed with the appropriate court no later than 60 days after the date on which this Act is approved by the Governor or otherwise becomes law without such approval.

SECTION 3.

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the election superintendent of Towns County shall call and conduct an election as provided in this section for the purpose of submitting this Act to the electors of Towns County for approval or rejection. The election superintendent shall conduct that election on the third Tuesday in June, 2005, and shall issue the call and conduct that election as provided by general law. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of Towns County. The ballot shall have written or printed thereon the words:

"() YES Shall the Act be approved which provides for a five-member board of commissioners, to be elected in November, 2008, or upon an earlier vacancy
() NO in the office of the sole commissioner of Towns County?"

All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on such question are for approval of the Act, then quoted Section 1 of Section 1 of this Act and the provisions of this Act relating to election of the five-member board of commissioners shall become of full force and effect immediately and the remainder of Section 1 of this Act shall become of full force and effect on January 1, 2009, or upon earlier election of a five-member board of commissioners in accordance with quoted Section 1 of Section 1 of this Act. If Section 1 of this Act is not so approved or if the election is not conducted as provided in this section, Section 1 of this Act shall not become effective and this Act shall be automatically repealed on the first day of January immediately following that election date. The expense of such election shall be borne by Towns County. It shall be the election superintendent's duty to certify the result thereof to the Secretary of State.

SECTION 4.

Except as otherwise provided in Section 3 of this Act, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.